

Exhibit 1C

Cause #

## 8 Am. Jur. 2d Automobiles § 408

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### Automobiles and Highway Traffic

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### VI. Civil Liability Arising from Operation of Vehicle

#### A. In General

##### 1. Overview

## § 408. Motor vehicle as dangerous instrumentality for purpose of liability arising from operation of vehicle

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Automobiles](#)  146, 148

### Trial Strategy

[All-Terrain Vehicle Litigation](#), 38 Am. Jur. Trials 231

### Forms

Forms relating to condition and equipment of vehicle, generally, see Am. Jur. Pleading and Practice Forms, Automobiles and Highway Traffic [[Westlaw®\(r\) Search Query](#)]

The rules of law applicable to dangerous instrumentalities<sup>1</sup> do not apply to motor vehicles.<sup>2</sup> Thus, motor vehicles, including automobiles,<sup>3</sup> at least when in proper repair,<sup>4</sup> are not such dangerous instrumentalities as to render the owners thereof ipso facto

liable, without regard to negligence, for injuries resulting from their operation. A trailer being pulled by the driver's truck is also not a dangerous instrumentality.<sup>5</sup> In contrast, a farm tractor is a dangerous instrumentality as a matter of law.<sup>6</sup>

In some jurisdictions, automobiles have been referred to as dangerous instrumentalities when in operation on the public ways,<sup>7</sup> not in the sense of imposing absolute liability upon owners or operators for injuries caused thereby to others, but in the sense that a high degree of care must be exercised by those operating them.<sup>8</sup> This “high degree” of care may be regarded as ordinary care under the circumstances, the fact that the instrumentality used is an automobile constituting one of the circumstances.<sup>9</sup> Furthermore, motor vehicles may constitute dangerous instrumentalities even when operated on private property.<sup>10</sup>

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#### Footnotes

- 1 Am. Jur. 2d, Negligence §§ 295 to 408.
- 2 *Fisher v. Fletcher*, 191 Ind. 529, 133 N.E. 834, 22 A.L.R. 1392 (1922).
- 3 *State v. Adkins*, 40 Ohio App. 2d 473, 69 Ohio Op. 2d 416, 320 N.E.2d 308 (7th Dist. Columbiana County 1973).  
As to vehicles in the hands of incompetent or inexperienced drivers as dangerous instrumentalities, see § 623.
- 4 *Gossett v. Van Egmond*, 176 Or. 134, 155 P.2d 304 (1945).
- 5 *Halenda v. Habitat for Humanity Intern., Inc.*, 125 F. Supp. 2d 1361 (S.D. Fla. 2000), *aff'd*, 245 F.3d 794 (11th Cir. 2000) (applying Florida law).
- 6 *Rippy v. Shepard*, 80 So. 3d 305 (Fla. 2012).
- 7 *Petitte v. Welch*, 167 So. 2d 20 (Fla. 3d DCA 1964).  
An automobile or motor vehicle is an instrumentality of service, whose weight, speed, and mechanism make it peculiarly dangerous when in operation on public highways. *Rippy v. Shepard*, 80 So. 3d 305 (Fla. 2012).
- 8 *McNear v. Pacific Greyhound Lines*, 63 Cal. App. 2d 11, 146 P.2d 34 (1st Dist. 1944).
- 9 *Whicker v. Crescent Auto Co.*, 20 Cal. App. 2d 240, 66 P.2d 749 (1st Dist. 1937).
- 10 *Rippy v. Shepard*, 80 So. 3d 305 (Fla. 2012).

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